

**Right of Way Division
Utah Department of Transportation**

Relocation Assistance Brochure

October 1, 2016

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Overview

The Utah Department of Transportation (UDOT) is the lead agency in the State of Utah responsible for the Federal Relocation Program under the amended Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the State of Utah Relocation Program under the Utah Relocation Assistance Act, Utah Code Section 57-12. A relocation agent will contact you if you are required to move as a result of a Federal or federally assisted program or from a State or State assisted program or project.

This brochure describes the programs provided by UDOT for assistance to those who are required to move because the property they now occupy as a tenant or owner lies within the path of a state or federal highway project. These services are available to individuals, families, businesses, farmers, and non-profit organizations.

This brochure outlines the pre-requisites for eligibility and how benefits may be obtained. Additional information regarding available relocation assistance is available on the UDOT website at: <http://www.udot.utah.gov> and is available upon request from:

Utah Department of Transportation
Right of Way Division
4501 South 2700 West Taylorsville, Utah
Telephone (801) 965-4209

Mailing address:
4501 South 2700 West, Box 148420
Taylorsville, UT 84114-8420

This brochure provides an overview of Moving Assistance Payments and a Fixed Payment Schedule for a residential move from a property in the state of Utah. An Owner-Occupant or Tenant who is displaced may claim moving assistance based upon a federally approved schedule providing they own furniture that must be moved:

Residences, Unfurnished Apartments and Furnished Apartments

Home or Apartments	Furnished Apartments
1 Room \$650	1 Room \$500
2 Rooms \$800	Each Additional Room\$100
3 Rooms \$950	
4 Rooms\$1,100	Mobile Home
5 Rooms\$1 ,250	Actual Cost of Move..... .TBD
6 Rooms \$1 ,400	
7 Rooms\$1 ,550	Additional Moving Expenses:
8 Rooms \$1 ,700	<i>Piano, Shed, etc</i> TBD
Each Additional Room\$150	<i>Additional Items</i>TBD

A room must contain a reasonable amount of furniture or personal property to be considered. An attic, basement room, or out building will be considered a room if it meets the same requirements. Bathrooms are not counted or considered as rooms.

Government programs designed to benefit the public as a whole often result in acquisition of private property and sometimes in the displacement of people from their residences, businesses, nonprofit organizations, or farms. Congress passed the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and amended it in 1987 to provide uniform and equitable treatment for displaced people. This law is the Uniform Act and is the foundation for the information discussed in this brochure.

Acquisition and relocation policies and provisions for all Federal and federally assisted programs and projects are contained in the government-wide rule published in the Federal Register on January 4, 2005. The rules are reprinted each year in the Code of Federal Regulations (CFR), Title 49, Part 24. All Federal, State, local government agencies, and others receiving Federal financial assistance for public programs and projects that require the acquisition of real property must comply with the policies and provisions set forth in the Uniform Act and the regulation.

The acquisition itself does not need to be federally funded for the rules to apply. The rules of the Uniform Act apply if Federal funds are used in any phase of the program or project. Section 1 of this brochure provides information about relocation assistance advisory service. Section 2 contains information important to you if you are being displaced from a residence. Section 3 contains information for displaced businesses, farms, and nonprofit organizations.

INTRODUCTION

A relocation agent will contact you if you are required to move as a result of a Federal or federally assisted program or project. The agent will answer your questions and provide additional information you may need. You will be provided assistance if you have a disability that prevents you from reading or understanding this brochure. Notify the sponsoring Agency if you have special requirements for assistance.

This brochure explains your rights as an owner of real property to be acquired for a federally funded program or project. The requirements for acquisition of property are explained in a brochure entitled Acquisition, Acquiring Real Property for Federal and Federal-aid Programs and Projects. Acquisition and relocation information is available on the Federal Highway Administration (FHWA) Office of Real Estate Services website www.fhwa.dot.gov/realestate.

Relocation assistance advisory services and payments are administered at the local level by an Agency responsible for the acquisition of real property or the displacement of people from property to be used for a federally funded program or project. The Agency may be a Federal agency, a State agency, a local agency such as a county or a city, or a person carrying out a program or project with Federal financial assistance. The Agency may contract with a qualified individual or firm to administer the relocation program. The Agency remains responsible for the program.

IMPORTANT TERMS USED IN THIS BROCHURE

Alien Not Lawfully Present

A displaced person who is an alien not lawfully present in the United States is not eligible for relocation payments or assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act, unless ineligibility results in exceptional and extremely unusual hardship to the alien's spouse, parent, or child, and such spouse, parent, or child is a citizen or an alien lawfully admitted for permanent residence.

Business Any lawful activity, with the exception of a farm operation, conducted primarily for the purchase, sale, lease, and rental of personal or real property or for the manufacture, processing, or marketing of products, commodities, or any other personal property or for the sale of services to the public or solely for the purpose of the Uniform Act, an outdoor advertising display or displays, when the displays must be moved as a result of the project.

Displaced Person

Any person (individual, family, partnership, association or corporation) who moves from real property or moves personal property from real property as a direct result of

1. The acquisition of the real property, in whole or in part
2. A written notice from the Agency of its intent to acquire
3. The initiation of negotiations for the purchase of the real property by the Agency
4. A written notice requiring a person to vacate real property for the purpose of rehabilitation or demolition of improvements, provided the displacement is permanent and the property is needed for a Federal or federally assisted program or project.

Farm

Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

Nonprofit Organization A public or private entity that has established its nonprofit status under applicable Federal or State law.

Program or Project

An activity or series of activities undertaken by a Federal agency or an activity undertaken by a State or local agency with Federal financial assistance in any phase of the activity.

Small Business

A business having not more than 500 employees working at a site of economic activity and that will be acquired for a program or project or is displaced by a program or project. A site occupied solely by outdoor advertising signs does not qualify for the reestablishment expense benefit.

SECTION 1 RELOCATION ADVISORY SERVICES

A relocation agent will contact you and offer relocation assistance service. Any individual, family, business, or farm displaced by a Federal or federally assisted program is offered relocation assistance services for the purpose of locating a suitable replacement property. Relocation services are provided by qualified personnel employed by the Agency. It is their goal and desire to assist in any way possible to help you successfully relocate. Your relocation agent is there to help and advise you. Do not hesitate to ask questions and be sure you fully understand all your rights and benefits. An individual with a disability is provided the assistance needed to locate and move to a replacement dwelling or site. Notify the Agency of any special requirements for assistance.

RESIDENTIAL ASSISTANCE

A relocation agent from the Agency will contact and interview you to identify your needs. Relocation services and payments will be explained in accordance with your eligibility. During the initial interview your housing needs and desires are determined as well as your need for assistance. The agent will offer assistance and provide a current listing of comparable properties. You will be given a written determination of the amount of replacement housing for which you qualify. The agent can supply information on other Federal and State programs in your area. Transportation will be offered to inspect housing referrals. The Agency will provide counseling or help you get assistance from other sources to minimizing hardships in adjusting to your new location. You cannot be required to move unless at least one comparable decent, safe, and sanitary (DSS) replacement dwelling is made available to you. Notify your agent if you locate a replacement dwelling so it can be inspected to make sure it meets DSS standards.

BUSINESS, FARM, AND NONPROFIT ORGANIZATION ASSISTANCE

A relocation agent from the Agency will contact and interview you to identify your needs, replacement site requirements, and estimated time needed to accomplish the move. The agent will ask many questions to determine your financial ability to accomplish the move including lease terms and other obligations. Relocation services and payments will be explained in accordance with your eligibility. Explain any anticipated problems you have to the agent. The agent will help determine the need for outside specialists to plan, move, and reinstall personal property and identify and resolve any issues regarding what is real estate and what is personal property to be relocated. The agent will explore and provide advice as to possible sources of funding and assistance from other local, State, and Federal agencies. The agent will maintain listings of commercial properties and farms. The goal is to achieve a successful relocation back into the community.

Social Services Provided By Other Agencies

Your agent will be familiar with the services provided by other public and private agencies in your community. The agent will make every effort to secure the services of agencies with trained personnel who have the expertise to help you with any special problems.

Moving Costs

You are entitled to reimbursement for moving costs and certain related moving expenses if you qualify as a displaced person. A displaced person and families may choose to be paid on the basis of actual, reasonable moving costs and related expenses or according to a fixed moving cost schedule. Contact the relocation agent from the Agency before you move to assure your eligibility and prompt payment for moving expenses.

Reasonable Moving Costs

You may be paid for your actual, reasonable moving costs by a professional mover plus related expenses or you may move yourself. Reimbursement will be limited to a 50-mile distance in most cases.

Related expenses involved in the move may include:

1. Packing and unpacking personal property
2. Disconnecting and reconnecting household appliances
3. Temporary storage of personal property
4. Insurance while property is in storage or transit
5. Transfer of telephone service and other similar utility reconnections
6. Other expenses considered eligible by the Agency

SECTION 2 INDIVIDUALS AND FAMILIES

All expenses must be considered necessary and reasonable by the Agency and supported by paid receipts or other evidence of expenses incurred.

Fixed Moving Cost

You may choose to be paid on a fixed moving cost schedule established for your State. The payment amount is based on the number of rooms in your dwelling. Your relocation agent will tell you the exact amount you are eligible to receive if you select this option. The schedule is designed to include all moving expenses including those services that must be purchased from others. You may be entitled to a payment for the cost of moving a mobile home to a replacement site on an actual cost basis if you own a displaced mobile home. Displaced mobile home occupants (owners or tenants) may also be eligible for a payment for moving personal property from the mobile home such as furniture, appliances, and clothing on an actual cost basis or on the basis of a moving cost schedule. Your relocation agent can give you a complete explanation of all moving cost options involving a mobile home.

REPLACEMENT HOUSING

There are three types of replacement housing payments:

1. Purchase supplement
2. Rental assistance
3. Down payment

To understand replacement housing payments you first need to become familiar with the following terms:

1. Comparable
2. Financial Means
3. Decent, Safe, and Sanitary (DSS)
4. Last Resort Housing

Comparable

A comparable replacement dwelling must be DSS and functionally equivalent to your present dwelling. A comparable replacement dwelling provides the same utility and function as the dwelling from which you are being displaced and may not necessarily be identical to your present dwelling. A comparable replacement dwelling should be:

1. Adequate in size to accommodate the current occupants
2. Located in an area that is not subject to unreasonable adverse environmental conditions
3. Located in an area that is not less desirable than your present location with respect to public utilities and commercial and public facilities
4. Reasonably accessible to your place of employment
5. Located on a site that is typical in size for residential development with normal site improvements
6. Currently available on the private market
7. Within your financial means

Financial Means

The replacement dwelling is considered to be within your financial means in addition to the acquisition price for your dwelling if a purchase supplement is needed and provided.

For a tenant, the monthly rent and estimated average monthly utility cost (electricity, gas, other heating and cooking fuels, water, and sewer) for a comparable replacement dwelling is considered to be within financial means if, after receiving rental assistance, this amount does not exceed the base monthly rent (including average monthly utility cost) for the dwelling from which the tenant is displaced. The Agency

may need to calculate the base monthly rent using 30% of the displaced tenant's total monthly gross household income if that income qualifies as low income in accordance with established low income amounts determined by the U.S. Department of Housing and Urban Development (HUD). The Agency will also evaluate the amounts designated for shelter and utilities for a tenant that receives government assistance. The rental assistance payment will be computed using the least of the three –rent and average monthly utility cost, 30% of the total monthly gross household income for a qualified low income tenant, or the total amount designated for shelter and utilities for a tenant receiving government assistance. Provide the Agency with appropriate evidence of total monthly household income to ensure the maximum benefit. There are some amounts not included as monthly household income, such as income earned by dependents. The Agency will explain this procedure in greater detail.

Decent, Safe, and Sanitary (DSS)

The DSS standard means the replacement dwelling meets the minimum requirements established by Federal regulations and conforms to applicable local housing and occupancy codes. The dwelling:

1. Is structurally sound, weather tight, and in good repair.
2. Contains a safe electrical wiring system adequate for lighting and other devices. Contains a heating system capable of sustaining a temperature of approximately 70 degrees Fahrenheit except where local climate does not require such a system.
3. Is adequate in size, number of rooms, and area of living space to accommodate the displaced person
4. Contains a well-lighted and ventilated bathroom providing privacy to the user, sink, bathtub or shower stall, and toilet, all in good working order and properly connected to appropriate sources of water and sewage drainage system.
5. Contains a kitchen area with a fully usable sink, properly connected to potable hot and cold water and a sewage drainage system with adequate space and utility connections for a stove and refrigerator.
6. Has unobstructed egress to safe, open space at ground level.
7. Is free of any barriers that prevent reasonable ingress, egress or, in the case of a handicapped displaced person, use of the dwelling.

IMPORTANT NOTICE The DSS replacement dwelling inspection is conducted by Agency personnel for the sole purpose of determining your eligibility for a relocation payment. Agency approval does not guarantee that there are no deficiencies in the dwelling, its fixtures, or equipment. You are responsible to protect your interest and investment in the purchase or rental of your replacement property. The Agency will not assume responsibility if structural, mechanical, legal, or other unforeseen problems are discovered after the inspection has been conducted.

Last Resort Housing

Last Resort Housing is an administrative procedure authorized by law for times when comparable replacement housing is not available under statutory limits specified by law. The law and regulation allows the Agency to provide a replacement housing payment in excess of the statutory maximums of \$7,200 and \$31,000. This provision is commonly used and will not be restated throughout this brochure.

The Agency must provide comparable, DSS replacement housing within your financial means before you are required to move. The Agency may provide necessary housing in ways such as:

1. Making a replacement housing payment in excess of the maximum \$7,200 or \$31,000 statutory limits.
2. Purchasing an existing comparable residential dwelling and making it available to you in exchange for your dwelling.
3. Moving and rehabilitating a dwelling and making it available to you in exchange for your property.
4. Purchasing, rehabilitating, or reconstructing an existing dwelling to make it comparable to your property.
5. Purchasing land and constructing a new replacement dwelling comparable to your dwelling when comparables are not otherwise available.

6. Purchasing an existing dwelling, removing barriers, or rehabilitating the structure to accommodate a handicapped displaced person when a suitable comparable replacement dwelling is not available.
7. Providing a direct loan that will enable you to construct or contract the construction of a decent, safe, and sanitary replacement dwelling.

Freedom of Choice

An eligible displaced person has the freedom of choice in the selection of a replacement dwelling. The Agency will not require you to accept a replacement dwelling provided by the Agency without your written consent. You may secure a replacement dwelling of your choice that meets the DSS standard if you decide not to accept the replacement housing offered by the Agency. Your relocation agent will thoroughly explain the program to you if you are eligible for Last Resort Housing.

Length of Occupancy -Basic Occupancy Requirements

Length of occupancy is the number of days you occupied the dwelling before negotiations by the Agency began for the purchase of the property. The type of payment you are eligible for depends on whether you are an owner or a tenant and how long you have lived in the property being acquired prior to the start of negotiations. The negotiations begin the date the Agency makes the first personal contact with the owner or representative of real property and provide a written offer to purchase the property being acquired. Owners who were in occupancy 90 days or more prior to negotiations may be eligible for a purchase supplement or a rental assistance payment. Tenants who were in occupancy 90 days or more prior to negotiations may be eligible for a rental assistance payment or a down payment.

Owners in occupancy 90 days prior to negotiations may be eligible for a rental assistance payment or a down payment. The down payment cannot exceed the amount you would have received if you had been a 90-day owner. You are considered a displaced person if you were in occupancy at the time negotiations begin but less than 90 days prior to that date and entitled to relocation assistance advisory services and moving payments. You may be entitled to a rental assistance payment if comparable replacement rental housing is not available within your financial means. The Agency will use the financial means process described earlier in this brochure. This process involves checking to see if you qualify as low income using the HUD definition. You may be eligible for a rental assistance payment under Last Resort Housing if you are required to pay rent and utilities in excess of 30% of your average monthly gross household income for a comparable replacement dwelling unit because comparable replacement housing is not available within your financial means. Meet with your relocation agent for an explanation of relocation benefits you may be eligible to receive.

REPLACEMENT HOUSING - PURCHASE SUPPLEMENT

Owners in occupancy 90 days or more immediately prior to negotiations may be eligible for a supplemental payment for costs necessary to purchase a comparable DSS replacement dwelling in addition to the fair market value of their property. The Agency will compute the maximum payment you are eligible to receive. You must purchase and occupy a DSS replacement dwelling within one year. A purchase supplement has three components:

1. Price differential
2. Amount for increased mortgage interest
3. Incidental expenses

The purchase supplement is in addition to the acquisition price paid for your property.

Price Differential

The price differential payment is the excess difference between the cost of a replacement dwelling and the acquisition cost of the displacement dwelling.

Increased Mortgage Interest

You may be reimbursed for increased mortgage interest costs if the interest rate on your new mortgage exceeds that of your present mortgage. Your acquired dwelling must have been encumbered by a bona fide mortgage, which was a valid lien, for at least 180 days prior to negotiations.

Incidental Expenses

You may be reimbursed for other expenses such as reasonable costs incurred for title search, recording fees, and certain other closing costs, but not for prepaid expenses such as real estate taxes and property insurance.

Price Differential Computation

Example A: The Agency purchases your property for \$100,000. After a thorough study of available comparable residential properties on the open market, the Agency determines that a comparable replacement property will cost \$116,500. You will be eligible for a price differential payment of \$16,500 if you purchase a DSS replacement property for \$116,500.

Example B: You pay the difference if you purchase a DSS replacement property costing more than \$116,500.

Example C: The price differential payment will be based on your actual cost if your purchase price is less than \$116,500.

Example A	Actual Cost of Replacement Property (Same Purchase Price as Comparable) Acquisition	\$116,500
	Price of Your Property	<u>-100,000</u>
	Price Differential Payment	\$ 16,500
Example B	Actual Cost of Replacement Property	\$125,000
	Acquisition Price of Your Property	<u>-100,000</u>
		\$ 25,000
	Difference Price Differential Payment	\$16,500
	You Are Responsible for This Amount	\$8,500
Example C	Actual Cost of Replacement Property	\$114,000
	Acquisition Price of Your Property	<u>-100,000</u>
	Differential Payment	\$ 14,000
	Payment is Based on Actual Cost	

REPLACEMENT HOUSING -RENTAL ASSISTANCE

90-Day Owners Who Choose to Rent

A rental computation will be computed based on a determination of the fair market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. The difference will be multiplied by 42. In no circumstances will the rental assistance payment exceed the amount the owner would have received as a price differential described previously.

For Owner Occupants and Tenants of 90 Days

Owner occupants and tenants of 90 days or more may be eligible for a rental assistance payment. To be eligible for a rental assistance payment, tenants and owners must have been in occupancy at least 90 days immediately preceding the negotiations for the acquisition of the property. This payment is designed to enable you to rent a comparable decent, safe, and sanitary replacement dwelling for a 42-month period. You may be eligible for a rental assistance payment if you choose to rent a replacement dwelling and the cost of rent and utilities are higher than you were paying. The Agency will determine the maximum payment you may be eligible to receive in accordance with established procedures. The Agency will determine if the rental assistance payment will be paid in a lump sum or installments. You must rent and occupy a DSS replacement dwelling within one year to be eligible.

Example

Assume you have been paying \$500 per month rent for the dwelling you have occupied and you also pay \$150 per month for basic utilities (electricity, gas, other heating and cooking fuels, water, and sewer). In this example your base rent including utilities equals \$650 per month. The rental assistance payment computation always includes the cost of basic utilities and rent. A separate computation is not necessary if rent includes utilities.

The Agency studies the rental market and determines that a replacement rental unit that is DSS and comparable to your unit is available for \$600 per month. It is estimated that average monthly utility costs for the replacement unit will be \$175 per month. The maximum rental assistance payment you can receive is \$125 per month for a 42-month period, or a total of \$5,250.

Example A: You will receive the maximum amount computed by the Agency, or \$5,250 if you select a DSS replacement dwelling unit that rents for \$650 per month plus \$175 for utilities, despite the availability of comparable DSS replacement rental units that rent for \$600 per month plus \$175 for utilities. You will be required to pay the additional \$50 per month yourself. .

Example B: Your payment will be based on actual cost if you select a DSS replacement dwelling unit that rents for more than your present unit but less than amount determined by the Agency as necessary to rent a comparable unit. For example, assume you select a replacement dwelling unit that rents for \$575 per month plus \$165 for utilities. You will be eligible for a payment of \$90 per month for 42 months or \$3,780 on the basis of actual cost

Example A	Agency Computation	Rent You are Currently Paying	\$500
	Agency Computation	<u>Plus Cost for Utilities You are Paying</u>	<u>+150</u>
	of Maximum Rental		
	Assistance Payment	Total Base Rent with Utilities	\$650
		Rent for a Comparable DSS Dwelling	\$600
		<u>Estimated Cost for Utilities</u>	<u>+175</u>
		Total Comparable Rent with Utilities	\$775
		<u>Difference (\$775-650=\$125) x 42 months</u>	<u>\$5250</u>
Example B		Maximum Rental Assistance Payment	\$5250
		Actual Rent for DSS Replacement Property	\$600
		<u>Plus Estimated Cost for Utilities</u>	<u>+175</u>
		Total actual rent with Utilities	\$825
		Difference	\$825
		<u>(\$825-650=\$175) x 42 months</u>	
		<u>Rental Assistance Payment</u>	<u>\$7,350</u>
		Maximum Rental Assistance Payment	\$7,200
Example B		The agency may invoke the provisions of Last Resort Housing and pay the full \$7350 even though it exceeds the maximum allowable amount of \$7,200.	
		Actual Rent for DSS Replacement Property	\$575
		<u>Plus Estimated Cost for Utilities</u>	<u>+165</u>
		Total Actual Expense per month	\$740
		<u>Difference (\$740-650=\$90) x 42 months</u>	<u>\$3,780</u>
		Rental Assistance Payment	\$3,780

REPLACEMENT HOUSING DOWNPAYMENT

Owner Occupants of 90 Days and Tenants of 90 days or more may be eligible for a down payment and incidental expenses. The Agency will determine the maximum down payment you may be eligible to receive based on its computation for a rental assistance payment. The payment for a displaced owner occupant will not exceed the amount received by a 90-day owner for the same property.

The entire down payment assistance must be used to purchase a DSS replacement dwelling. The payment may be utilized for a down payment toward the purchase price or eligible incidental expenses. Incidental expenses include the reasonable costs of title search, recording fees, and other closing costs but do not include prepaid expenses such as real estate taxes and property insurance. You may be eligible for reimbursement of loan origination or loan assumption fees if such fees are normal to real estate transactions in your area and do not represent prepaid interest. The combined amount of the down payment and incidental expenses cannot exceed the amount the Agency computed as your maximum rental assistance payment. The relocation agent will explain how the Agency determines the maximum down payment assistance payment.

DSS Reminder

It is very important to remember that the replacement dwelling you select must meet the basic DSS standard. Do not execute a sales contract or a lease agreement until a representative from the Agency has inspected and certified in writing that the dwelling you propose to purchase or rent meets the DSS standard. Do not jeopardize your right to receive a replacement housing payment by moving into a substandard dwelling.

Fair Housing Laws

Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968 set forth the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States. These Acts and Executive Order 11063 make discriminatory practices in the purchase and rental of residential units illegal if based on race, color, religion, sex, or national origin. A minority will be given reasonable opportunity to relocate to a DSS replacement dwelling that is not located in an area of minority concentration, whenever possible. This policy does not require an Agency to provide a displaced person with a larger payment than is necessary to enable the person to relocate to a comparable replacement dwelling.

MOVING COST REIMBURSEMENT

Owners or tenants may be paid on the basis of actual, reasonable moving costs and related expenses or a fixed payment under certain circumstances. Actual, reasonable moving expenses may be paid when the move is performed by a professional mover or if you move yourself. Businesses may also be paid for related expenses such as personal property losses, expenses in finding a replacement site, and reestablishment expenses may also be reimbursable.

Provide the Agency with an inventory of personal property to be moved and advance notice of the approximate date of the move unless the Agency specifically tells you these notices are not necessary. The Agency has the right to inspect the personal property at the displacement and replacement sites and to monitor the move.

Actual Cost Move

You may be paid the actual, reasonable, and necessary cost of your move when the move is performed by a professional mover or when you elect to move yourself. All your moving costs must be supported by paid receipts or other evidence of expenses incurred. Certain other expenses may be reimbursable such as packing, crating, unpacking, uncrating, disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property.

SECTION 3

BUSINESS, FARM, AND NONPROFIT ORGANIZATIONS

Other expenses such as professional services for planning and carrying out the move, temporary storage costs, and the cost of licenses, permits, and certifications may also be reimbursable. This is not an inclusive list of moving related expenses. Your relocation agent will provide you with a complete explanation of reimbursable expenses.

Estimated Cost Move

The Agency may approve a payment not to exceed 90 percent of the lower of two acceptable bids or estimates obtained by the Agency from qualified moving firms, moving consultants, or a qualified Agency staff employee if you agree to take full responsibility for all or part of the move. The agency will deduct 10% from the bid to account for profit and overhead expenses that the commercial moving company is assumed to have included in its bid. A low cost or uncomplicated move may be based on a single bid or estimate at the Agency's discretion. The advantage of this moving option is that it relieves you from documenting all moving expenses because the payment is limited to 90 percent of the amount of the lowest acceptable bid or estimate. The Agency may make the payment without additional documentation. Direct Loss of Tangible Personal Property Displaced businesses, farms, and nonprofit organizations may be eligible for a payment for the actual direct loss of tangible personal property incurred as a result of the move or discontinuance of the operation. This payment is based on the lesser of the value of the item for continued use at the displacement site less the proceeds from its sale or the estimated cost of moving the item. Your relocation agent will explain this procedure in detail if this is a consideration for you.

Low Value High Bulk Property

A personal property item considered by the Agency to be of low value and high bulk with moving costs disproportionate to its value such as minerals, metals, rock, or topsoil, the allowable moving cost payment cannot exceed the lesser of the amount that would be received if the property were sold at the site or the replacement cost of a comparable quantity delivered to the new business location. Searching expenses for replacement property, displaced businesses, farms, and nonprofit organizations are entitled to reimbursement for actual, reasonable expenses incurred in searching for a replacement property, not to exceed \$2,500. Expenses may include transportation, meals, and lodging when away from home; the reasonable value of the time spent during the search; and other expenses determined to be reasonable and necessary by the Agency. Fees paid to real estate agents or brokers to locate a replacement site may be reimbursed, exclusive of any commissions or fees related to the purchase of the site. Commissions and fees related to the purchase of a replacement site are not eligible for relocation expenses and will not be reimbursed.

RELATED ELIGIBLE EXPENSES

In addition to the moving expenses listed above, costs for these items may be reimbursed if the Agency determines they are actual, reasonable, and necessary:

1. Connection to available nearby utilities from the right-of-way to improvements at the replacement site.
2. Professional services to determine site suitability for the displaced person.
3. Impact fees or one time assessments for heavy utility usage as determined necessary by the Agency. Please discuss this with your relocation agent before incurring these costs to determine if they are reimbursable.

REESTABLISHMENT EXPENSES

A small business, farm, or nonprofit organization may be eligible for a payment not to exceed \$50,000 for expenses actually incurred in relocating and reestablishing the enterprise at a replacement site. The business, farm, or nonprofit organization must have less than 500 employees working at the site who will be displaced by a program or project. Reestablishment expenses may include but are not limited to:

1. Repairs or improvements to the replacement real property required by Federal, State, and local laws, codes, or ordinances.
2. Modifications to the replacement real property to make the structures suitable for the operation.
3. Construction and installation costs of exterior advertising signs.
4. Redecoration or replacement such as painting, wallpapering, paneling, and carpeting when required at the replacement site.
5. Advertising the replacement location.
6. Estimated increased costs of operation at the replacement site during the first two years for items such as, lease or rental charges, personal or real property taxes, insurance premiums, and utility charges excluding impact fees.
7. Other items that the Agency considers essential for reestablishment.

FIXED PAYMENT FOR ACTUAL MOVING EXPENSES IN LIEU OF PAYMENT

Displaced businesses, farms, and nonprofit organizations may be eligible for a fixed payment in lieu of actual moving expenses, personal property losses, searching expense, and reestablishment expenses. The fixed payment may not be less than \$1,000 or more than \$ 75,000. The Agency determines if a business is eligible for a fixed payment based on the following criteria:

1. The Business owns or rents a substantial amount of personal property that must be moved due to the displacement. "Substantial amount" for purposes of this section means the estimated cost to move the personal property plus the estimated cost to reestablish the business is equal to or greater than the amount claimed as a fixed or in-lieu payment.
2. The Business cannot be relocated without a substantial loss of its existing patronage.
3. The Business is not part of a commercial enterprise with more than three other businesses engaged in the same or similar activity that are under the same ownership and are not being displaced by the Agency.
4. The Business, operated in whole or in part at the displacement location, contributes materially to the income of the displaced business operator during the two taxable years prior to displacement.

Eligibility requirements for nonprofit organizations are slightly different than business requirements. Payment for nonprofit organizations are computed on the basis of average annual gross revenues less administrative expenses for the two year period specified. Consult your relocation agent for additional information if you are interested in a fixed payment. The fixed payment for a displaced business or farm is based upon the average annual net earnings of the operation for the two taxable years immediately preceding the taxable year in which it was displaced or a two-year period deemed more representative by the Agency. You must provide the Agency proof of net earnings to support your claim. Proof of net earnings can be documented by income tax returns, certified financial statements, or other reasonable evidence acceptable to the Agency.

Example of an In-Lieu Payment calculation:

2014	2015	2016
Annual Net Earnings	Annual Net Earnings	Year Displaced
\$16,500	\$18,500	
Average annual net earnings $\$16,500 + \$18,500 = \$35,000 / 2 = \$17,500$		
Eligible Fixed or In Lieu Payment = <u>\$17,500</u>		

PROJECT OFFICE

The Agency may establish a relocation office near the project. Project relocation offices are usually open during hours convenient to people being displaced including evening hours if necessary. The Agency staff at a project office will be happy to assist you, answer questions, and provide various types of information.

RELOCATION PAYMENTS ARE NOT CONSIDERED TO BE INCOME

No relocation payment received will be considered as income for the purpose of the Internal Revenue Code. No relocation payment received will be considered income to determine eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law except for any Federal law providing low-income housing assistance.

RIGHT TO APPEAL

You may file a written appeal with the head of the Agency if you believe the Agency has failed to properly determine your eligibility for relocation assistance advisory services or the amount of a relocation payment. You will be given a prompt and full opportunity to be heard if you have a grievance. You will also have the right to be represented by legal counselor other representative in connection with the appeal but solely at your own expense. The Agency will promptly review your appeal and consider all pertinent justification and information available to ensure a fair and full review. The Agency will provide you with a written determination as well as an explanation of the decision. The Agency will advise you of your right to seek judicial review of the Agency decision if you are still dissatisfied with the relief granted. An alien not lawfully in the United States is not eligible to receive relocation payments or any other assistance provided under 49 CFR Part 24. This brochure is provided to assist you in understanding your rights and benefits. Please contact your sponsoring Agency representative if you have questions regarding your relocation. UDOT is the sponsoring agency if your property is being acquired by the State of Utah's Department of Transportation. A public agency such as a city or county may be the sponsoring agency if your property is being acquired by them. Additional information on Federal relocation and acquisition requirements, the law, and the regulation can be found at www.fhwa.dot.gov/realestate. Federal requirements apply to all UDOT projects and all public agency projects that are Federally funded. Agencies that use their own funds exclusively for a project with no Federal funds may have relocation requirements that differ from Federal requirements. All displacing agencies must either follow Federal and or UDOT requirements unless they have adopted rules for relocation. Those rules must be in writing and formally adopted by the agency. Consult your relocation agent if you do not yet know who to contact as the sponsoring agency.

NOTES_Addendum

EXECUTIVE SUMMARY OF PROPERTY OWNER'S RIGHTS

1. Fair Market Value. You have the constitutional right to receive just compensation when UDOT acquires your property. Just compensation can include compensation for a decrease in the market value of the portion of your property that remains when part of your property is acquired, if that decrease in value occurs because of the public improvements planned. In some cases, just compensation can include damages caused by the project to property that is not acquired but which is damaged by the project.
2. Full Payment. You have the right to receive full payment for just compensation in the full amount that is determined by negotiations or by a court, jury, mediation, or arbitration before UDOT takes title to your property.
3. Early Occupancy. If UDOT wishes to occupy your property before just compensation can be agreed upon, you are entitled to receive that money before UDOT occupies it. You may still reserve the right to receive the just compensation determined by a court, jury, mediation, or arbitration.
4. Public Documents. You have the right to examine and make copies of any public documents, including project maps, specifications, or other project materials in UDOT's possession.
5. Open Meetings. You have the right to attend any meetings held by an elected or appointed council or commission to discuss the project and to tape record the proceedings. You do not have the right to speak unless the meeting is a public hearing. You may be legally excluded if the officials move to go into an executive session to discuss the acquisition of real property or to discuss imminent legal proceedings.
6. Other Property Owners. You have the right to request that UDOT provide a list of any other property owners whose property is also being acquired for the project.
7. Public Purpose. You have the right to know for what public purpose your property is being acquired and to challenge the necessity of the acquisition.
8. Offer and Negotiation. You have the right to negotiate with UDOT before condemnation proceedings begin. For that purpose, UDOT is required to provide you with a written determination of the value of the property that is to be acquired from you and of any damages that will arise as a result of the acquisition.
9. Appraiser. You have the right to accompany the appraiser retained by UDOT during his or her inspection of your property and to talk to the appraiser before a value is reached.
10. Appraisal. You have the right to know the amount of the appraised value of your property and of any damages assessed and to request a copy of the appraisal report. You are entitled to know what appraisals exist and why you are not allowed to see them during negotiations if a copy is denied. You are entitled to see the appraisals before the hearing if the matter goes to formal mediation, arbitration, or trial.
11. Other Damages. Your right to just compensation includes payment for the land and any improvements on the land if they contribute value to the property. Just compensation also includes the net lost value of any remaining property that you keep (known as severance damages.) You may also be entitled to just compensation for any special and unique damage done to any portion of your property that is not acquired for the project and for any temporary occupancy of any portion of your property that is not being acquired but which must be used by UDOT or its contractors during construction of the project.
12. Relocation Costs. You have the right to be paid certain relocation expenses from UDOT if it requires you to move as a result of the acquisition. These amounts are determined by statute but may be mediated or arbitrated if, after exhausting the appeals process, UDOT decides to review such matters because a dispute still exists.
13. Replacement Dwelling. You have the right to be offered a comparable replacement dwelling that is decent, safe, and sanitary and reasonably close to your employment and public services if you are displaced from your home.

14. Displaced Business or Farm. You have the right to receive UDOT's assistance in identifying replacement properties available on the private market, located within UDOT's jurisdiction if your small business or farm is displaced by the project.
15. Prior Notice. You have the right to receive 90 days written notice before a move is required unless an emergency exists.
16. Rollback Taxes. You have the right to have UDOT pay any greenbelt rollback taxes if the acquisition results in your land losing greenbelt status.
17. Ombudsman. You have the right to consult with the State of Utah Private Property Ombudsman to inquire about your rights and responsibilities in eminent domain proceedings. Call 801-537-3455.
18. Second Appraisal. You have the right to an additional appraisal at UDOT's expense if you request it and the Ombudsman, mediator, or arbitrator appointed by the Ombudsman, considers the appraisal reasonably necessary to resolve a dispute about just compensation.
19. Alternative Dispute Resolution. UDOT has the right to institute legal action against you if the amount of just compensation cannot be negotiated. You have the right to request arbitration through the Ombudsman if you would rather arbitrate eminent domain issues than go to court. You have the right to arbitrate even if UDOT objects if the Ombudsman determines that arbitration is appropriate.
20. Evidence. You have the right to offer any relevant and admissible evidence at arbitration or trial to justify the amount of just compensation you consider appropriate including the use of expert witnesses. Any witness testifying to property value must be a licensed appraiser.
21. Disclosure and Review. You have the right to know and examine any evidence that will be used by UDOT to establish the amount of just compensation prior to formal mediation, arbitration, or trial. This includes copies of any appraisals UDOT has obtained to determine just compensation and other evidence they plan to offer.
22. Testify. You have the right to testify at arbitration and to testify at trial if qualified, regarding the value of your property.
23. Cross Examination. You have the right at arbitration or trial to cross examine the expert witnesses that UDOT relies upon to establish the amount of just compensation that it claims to be fair.
24. Appeal. You have the right to appeal to the District court if you are not satisfied with an arbitrator's determination.
25. Jury Trial. You have the right to choose to have the amount of compensation determined by a jury rather than by a judge if the matter goes to court.
26. Appellate Review. You have the right to appeal a District Court decision to an appellate court, if appropriate.

UTAH CODE 57-12

UTAH RELOCATION ASSISTANCE ACT

57-12-1 SHORT TITLE

This act shall be known and may be cited as the "Utah Relocation Assistance

Enacted by Chapter 24, 1972 General Session

57-12-2 DECLARATION OF POLICY

- (1) It is hereby declared to be the policy of this chapter and of the state, and the Legislature recognizes:
 - (a) that it is often necessary for the various agencies of state and local government to acquire land by condemnation
 - (b) that people, businesses, and farms are often uprooted and displaced by such action while being recompensed only for the value of land taken
 - (c) that such displacement often works economic hardship on those least able to handle the added and uncompensated costs of moving, locating new homes, business sites, farms, and other costs of being relocated
 - (d) that such added expenses should reasonably be included as a part of the project cost and paid to those displaced
 - (e) that the Congress of the United States has established matching grants for relocation assistance and has established uniform policies for land acquisition under the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq. to assist the states in meeting these expenses and assuring that land is fairly acquired
 - (f) that it is in the public interest for the state to provide for such payments and to establish such land acquisition policies.
- (2) The purpose of this chapter is to establish a uniform policy for the fair and equitable treatment of people displaced by the acquisition of real property by state and local land acquisition programs by building code enforcement activities or by a program of voluntary rehabilitation of buildings or other improvements conducted pursuant to governmental supervision.
- (3) All of the provisions of this chapter shall be liberally construed to put into effect the foregoing policies and purposes.

Amended by Chapter 306, 2007 General Session

57-12-3 DEFINITIONS

As used in this chapter:

- (1) "Agency" means
 - (a) a department, division, agency, commission, board, council, committee, authority, political subdivision, or other instrumentality of the state or of a political subdivision of the state whether one or more
 - (b) any other person whose use of the power of eminent domain results in a person becoming a displaced person.
- (2) "Business" means any lawful activity, excepting a farm operation, conducted primarily:
 - (a) for the purchase, sale, lease, or rental of personal or real property and for the manufacture, processing, or marketing of products, commodities, or any other personal property
 - (b) for the sale of services to the public
 - (c) by a nonprofit organization
 - (d) for assisting in the purchase, sale, resale, manufacture, processing, or marketing of

products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

- (3) "Displaced person" means any person who, after the effective date of this chapter, moves from real property or who moves the person's personal property from real property or moves or discontinues the person's business or moves the person's dwelling as a result of the acquisition of the real property, in whole or in part, or as a result of a written order of the acquiring agency to vacate real property for a program of purchase undertaken by an agency or as a direct result of code enforcement activities or a program of rehabilitation of buildings conducted pursuant to a federal or state assisted program.
- (4) "Family farm" means a farm operation which is conducted:
 - (a) on two sections (1280 acres) or less
 - (b) as a sole proprietorship or through an entity which is wholly owned by members of the same immediate family.
- (5) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities including timber for sale or home use and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.
- (6) "Non-profit organization" means all corporations, societies, and associations whose objective is not pecuniary profit but is to promote the general interest and welfare of the members whether temporal, social, or spiritual.
- (7) "Person" means any individual, partnership, corporation, or association.
- (8) "Small business" means a business which has a gross annual income of less than \$1,500,000.

Amended by Chapter 223, 2004 General Session

57.12-4 FEDERAL FUNDS -DIRECT ASSISTANCE

- (1) When federal funds are available for payment of direct financial assistance to a person displaced by acquisition of real property by any agency, the displacing agency may use those federal funds with state or local funds to the extent provided by federal law and may provide direct financial assistance in the instances and on the conditions set forth by federal law and regulations.
- (2)
 - (a) When federal funds are not available or used for payment of direct financial assistance to a person displaced by the acquisition of real property by an agency, the displacing agency may provide direct financial assistance to the that person.
 - (b) Except as provided in Subsection (3), financial assistance authorized by this Subsection (2) may not exceed the total amount that would have been payable under Subsection (1) if federal funds had been available or used.
- (3)
 - (a) The amount of direct financial assistance provided to a person displaced by acquisition of real property by any agency includes actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or business at a new site, in accordance with criteria established by the agency by rule, but not exceeding \$50,000.
 - (b) The \$50,000 limit on direct financial assistance listed Subsection (3)(a)
 - (i) applies despite any lower limit established by federal statute or regulation or agency rule
 - (ii) does not apply if a higher limit is established by federal statute or regulation.
- (4) A displaced person eligible for payments under this chapter who is displaced from his or her place of business or farm may accept payment under this subsection in lieu of any payment under the displacing agency's rules if the person is eligible under the agency's criteria.
 - (a) A payment under subsection (4) is a fixed payment of at least \$1 ,000 but not more than \$75,000.
 - (b) A person whose sole business at the site from which the person is displaced is the rental of property to others does not qualify for payment under this subsection.
- (5) Assistance under this section may not be provided to a person who is ineligible to receive relocation assistance under a federal statute or regulation.

Amended by Chapter 261, 2008 General Session

57-12-5 REIMBURSEMENT OF OWNERS FOR EXPENSES

Any agency acquiring real property for its use shall as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner for expenses the owner necessarily incurred for:

- (1) recording fees, transfer taxes, and similar expenses incidental to conveying the real property to the agency
- (2) penalty costs for prepayment for any preexisting recorded mortgage entered into in good faith encumbering the real property
- (3) the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the agency or the effective date of possession of such real property by the agency whichever is the earlier
- (4) relocation costs

Amended by Chapter [321](#) , 1998 General Session

57-12-6 BUILDINGS, STRUCTURES OR OTHER IMPROVEMENTS

- (1) Where any interest in real property is acquired, an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which is required to be removed from the real property or which is determined to be adversely affected by the use to which the real property will be put, shall be acquired.
- (2) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired under Subsection (1), the building, structure, or other improvement shall be deemed to be a part of the real property to be acquired, notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove the building, structure, or improvement at the expiration of his term and the fair market value which the building, structure, or improvement contributes to the fair market value of the property to be acquired, or the fair market value of the building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefore.
- (3) Payment for the buildings, structures, or improvements as set forth in subsection (2) shall not result in duplication of any payments otherwise authorized by state law. No payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any payment, the tenant shall assign, transfer, and release all his right, title, and interest in and to the improvements. Nothing with regard to this acquisition of buildings, structures, or other improvements shall be construed to deprive the tenants of any rights to reject payment and to obtain payment for these property interests in accordance with other laws of this state.

Enacted by Chapter [24](#), 1972 General Session

57-12-7 REPLACEMENT PROPERTY

- (1) No person shall be required to move or be relocated from land used for his or her residence and acquired under any of the condemnation or eminent domain laws of this state until he or she has been offered a comparable replacement dwelling, including the curtilage, which is a decent, safe, clean, and sanitary dwelling, including the curtilage, adequate to accommodate the occupants, available on the private market and reasonably accessible to public services and places of employment.
- (2) If a program or project cannot proceed to actual construction because comparable sale or rental housing is not available and cannot otherwise be made available, such action shall be taken as is necessary or appropriate to provide this housing by use of funds authorized for the project.
- (3) No person shall be required to move from his dwelling, including the curtilage, after the effective date of this act because of any project of the agency, unless replacement housing is available and offered to the property owner.

- (4) The agency shall assist owners of small businesses and family farms in identifying replacement properties available on the private market, located within the jurisdiction of the agency.

Amended by Chapter 321, 1998 General Session

57-12-8 ADVISORY PROGRAM

- (1) Whenever the acquisition of real property for a program or project undertaken by an agency will result in the displacement of any person after the effective date of this act, the agency shall provide a relocation assistance advisory program for a displaced person that will offer the services prescribed in this act. The agency may offer relocation advisory services to any person occupying property immediately adjacent to the real property acquired who is caused substantial economic injury because of the acquisition and offer this person relocation advisory services under such program.
- (2) Each relocation assistance program required by Subsection (1) shall include such measures, facilities, or services necessary or appropriate in order:
- (a) to determine the needs of a displaced person, business concerns, and nonprofit organizations for relocation assistance
 - (b) to assist owners of displaced businesses and farm operations in obtaining and becoming established in suitable business locations or replacement farms
 - (c) to supply information concerning programs of the federal, state, and local governments offering assistance to displaced persons and business concerns
 - (d) to assist in minimizing hardships to a displaced person in adjusting to relocation
 - (e) to secure, to the greatest extent possible, the coordination of relocation activities with other project activities and other planned or proposed governmental actions in the community or nearby areas that may affect the carrying out of the relocation program.

Enacted by Chapter 24, 1972 General Session

57-12-9 RULES OF DISPLACING AGENCY

- (1) A displacing agency may enact rules to assure that:
- (a) the payments and assistance authorized by this chapter are administered in a manner that is fair, reasonable, and as uniform as possible
 - (b) a displaced person who makes proper application for a payment authorized by this chapter is paid promptly after a move or, in hardship cases, is paid in advance
 - (c) any person aggrieved by a determination as to eligibility for a payment authorized by this chapter or the amount of a payment may have the person's application reviewed by the head of the displacing agency.
- (2) Each displacing agency that has not adopted rules under Subsection (1)(a) shall comply with the rules promulgated by the Utah Department of Transportation relating to a displaced person in right-of-way acquisitions.
- (3) Each displacing agency shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

7-12-10 DISPLACING AGENCY MAY CONTRACT FOR SERVICES OR FUNCTION THROUGH ANOTHER AGENCY

To prevent unnecessary expense and duplication of functions and to promote uniform and effective administration of relocation assistance programs for a displaced person, the displacing agency may enter into contracts with any person for services in connection with these programs or may carry out its functions under this act through any agency or any federal agency or instrumentality.

Enacted by Chapter 24, 1972 General Session

7-12-11 PAYMENTS NOT INCOME OR RESOURCES FOR WELFARE OR TAX PURPOSES

No payment received by a displaced person under this act shall be considered as income or resources for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any state law or for the purposes of the state's individual income tax, corporation franchise tax, or other tax laws. These payments shall not be considered as income or resources of any recipient of public assistance and such payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled.

Enacted by Chapter 24, 1972 General Session

7-12-12 JUDICIAL REVIEW

- (1) Any person aggrieved by an order concerning relocation assistance may obtain judicial review.
- (2) Venue for judicial review of informal adjudicative proceedings is in the district court of the county in which the real property taken for public use is located.

Amended by Chapter 161, 1987 General Session

7-12-13 PROCEDURE FOR ACQUISITION OF PROPERTY

Any agency acquiring real property under the eminent domain or condemnation laws of this state shall comply with the following policies:

- (1) Every reasonable effort shall be made to expeditiously acquire real property by negotiation.
- (2) Real property shall be appraised before the initiation of negotiations and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.
- (3) An amount shall be established before the initiation of negotiations for real property that is reasonably believed to be just compensation therefore and such amount shall be offered for the property. In no event shall such amount be less than the lowest approved appraisal of the fair market value of the property. Any decrease or increase of the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property will be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of and summary of the basis for the amount established as just compensation. Where appropriate, the just compensation for real property acquired and for damages to remaining real property shall be separately stated.
- (4) No owner shall be required to surrender possession of real property acquired through federal or federally assisted programs before the agreed purchase price is paid or there is deposited with a court having jurisdiction of condemnation of such property, in accordance with applicable law, for the benefit of the owner an amount not less than the lowest approved appraisal of the fair market value of such property or the amount of the award of compensation in the condemnation proceeding of such property.
- (5) The construction or development of a public improvement shall be scheduled so that, to the greatest extent possible, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling will be available) or to move his business or farm operation without at least a 90-day written notice from the date by which the move is required.
- (6) The amount of rent required of an owner or tenant permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice shall not exceed the fair rental value of the property to a short-term occupier.
- (7) In no event shall the time of condemnation be advanced on negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred or any other coercive action be taken to compel an agreement on the price to be paid for the property.

- (8) Formal condemnation proceedings shall be instituted if an interest in real property is to be acquired by exercise of the power of eminent domain. The acquiring agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.
- (9) An offer to acquire the entire property shall be made if the acquisition of only part of the property will leave the owner with an uneconomic remnant.

Enacted by Chapter 24, 1972 General Session

57-12-14 DISPUTE RESOLUTION -ADDITIONAL APPRAISAL

- (1) The private property owner may submit the dispute for mediation or arbitration according to the procedures and requirements of Section 13-43-204 if the agency and the private property owner or displaced person disagrees on any issue arising out of this chapter.
- (2)
 - (a) The private property owner or displaced person may request that the mediator or arbitrator authorize an additional appraisal.
 - (b) If the mediator or arbitrator determines that an additional appraisal is reasonably necessary to reach a resolution of the case, the mediator or arbitrator may:
 - (i) Have an additional appraisal of the property prepared by an independent appraiser
 - (ii) Require the agency to pay the costs of the first additional appraisal

Amended by Chapter 306, 2007 General Session

Rule R933-1. Right of Way Acquisition. As in effect on September 1, 2016

R933-1-1. Purpose and Authority:

This rule provides the department's procedures for right of way acquisition and the purchase, sale, and exchange of real property. This rule is required by Section 72-5-117 and is enacted under the authority of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

R933-1-2. Incorporation of Federal Regulations for Federal Financial Assistance Projects:

The State of Utah incorporates by reference 49 CFR 24 as amended in the Federal Register, on January 4, 2005, as its administrative rules on the acquisition of rights of way for projects receiving federal financial assistance.

R933-1-3. Partial Incorporation of Federal Regulations for State Projects Funded Without Federal Financial Assistance:

The State of Utah incorporates by reference 49 CFR 24 as amended in the Federal Register on January 4, 2005, as its administrative rules on the acquisition of rights of way for projects that do not receive federal financial assistance, except that 49 CFR 24.107 is not incorporated and shall not be the basis for recovery of attorney fees or other litigation expenses specified therein. Attorney fees and other litigation expenses shall only be recoverable for projects that do not receive federal financial assistance to the extent expressly provided for by state law.

R933-1-4. Requirements for Purchase, Sale, or Exchange of Real Property:

- (1) When purchasing, selling, or exchanging real property, the department shall obtain and review the following documents and authorities as the department deems it necessary or appropriate to ensure that the value of the real property is congruent with the proposed price and other terms of purchase, sale, or exchange:
 - (a) title insurance commitment;
 - (b) an environmental assessment;
 - (c) an engineering assessment;
 - (d) applicable regulatory codes;
 - (e) an appraisal;
 - (f) an analysis of past maintenance and operational expenses, when available;
 - (g) the situs, zoning, and planning information
 - (h) a land survey; and
 - (i) other requirements determined necessary by the Department.
- (2) This rule shall apply to all purchases, sales, and exchanges of the department, except as otherwise allowed, required or governed by state or federal law. For projects not receiving federal financial assistance, the requirements of this rule shall not apply to the purchase, sale, or exchange of property, or to an interest in real property that is under a contract or other written agreement prior to May 5, 2008, or with a value of less than \$100,000, as estimated by the department.

KEY:

right of way acquisition, condemnation

Date of Enactment or Last Substantive Amendment:

January 10, 2012

Notice of Continuation:

November 29, 2006

Authorizing, and Implemented or Interpreted Law:

72-5-117

Relocation initiation of negotiations for the property unless they are determined to qualify under the last resort provisions for reason of housing not being available within financial means in accordance with 49 CFR 24.404(c)(3).

5.3.10 Relocation Appeal Process

A person may appeal UDOT's determination of displacee eligibility status or the amount of the benefit that the person is eligible to receive. All potential displaced people will be given notice of their right to appeal and if interested, the procedure for making an appeal. This notification may be provided by the brochure but should also be stated in initial discussion with each displacee. Following is a summary of the law and procedure governing relocation assistance appeals:

1. Applicable Law
 - a. Utah Admin. Code R907-1 (appeal of departmental actions)
 - b. Utah Admin. Code R933-1 (incorporating by reference Title 49, Part 24 of the Code of Federal Regulations -Uniform Relocation Assistance and Real Property Acquisition For Federal and Federally-Assisted Programs)
 - c. Utah Code Ann. §§ 57-12-1 to -12 (Utah Relocation Assistance Act)
 - d. Title 42, Chapter 61 of the United States Code (Uniform Relocation Assistance and Real Property Acquisition Policies For Federal and Federally Assisted Programs)

2. Administrative Appeals of the Department's Relocation Assistance Eligibility Determinations
- a. Requirements of 49 C.F.R. § 24.10
- i) **General.** The Department will promptly review appeals in accordance with the requirements of applicable law, including 49 C.F.R. Part 24.
 - ii) **Actions which may be appealed.** Any aggrieved person may file a written appeal with the Department in any case in which the person believes that the Department has failed to properly consider the person's application for assistance under 49 C.F.R. Part 24. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under §24.106 or §24.107, or a relocation payment required under 49 C.F.R. Part 24. The Department will consider a written appeal regardless of form.
 - iii) **Time limit for initiating appeal.** The Department may set a reasonable time limit for a person to file an appeal. The time limit will not be less than 60 days after the person receives written notification of the Department's determination on the person's claim
 - iv) **Right to representation.** A person has a right to be represented by legal counselor other representative in connection with his or her appeal, but solely at the person's own expense.
 - v) **Review of files by person making appeal.** The Department will permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential by the Department. The Department may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws
 - vi) **Scope of review of appeal.** In deciding an appeal, the Department will consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.
 - vii) **Determination and notification after appeal.** Promptly after receipt of all information submitted by a person in support of an appeal, the Department will make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the Department will advise the person of his or her right to seek judicial review of the Department decision
 - viii) **Department official to review appeal.** The Department official conducting the review of the appeal will be either the head of the Department or his or her authorized designee. However, the official will not have been directly involved in the action appealed.
- b. **Authority of Department to adopt rules under state law** (Utah Code Ann. § 57-12-9) A displacing agency may enact rules to assure that:
- i) the payments and assistance authorized by this chapter are administered in a manner that is fair, reasonable, and as uniform as practicable;
 - ii) a displaced person who makes proper application for a payment authorized by this chapter is paid promptly after a move or, in hardship cases, is paid in advance; and

- iii) any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of a payment, may have the person's application reviewed by the head of the displacing agency.
- c. **Requirements of Utah Admin. Code R907-1** (order of proceedings)
 - i) The hearing officer may set reasonable time limits under R907 -1-10(9). A typical hearing will be set for two hours.
 - ii) The Department will send letter at least 20 days before the hearing notifying the applicant of the hearing date, time and location.
 - iii) Discovery is prohibited, but subpoenas may be issued for the production of necessary evidence. Upon request, the applicant will have access to information contained in the Department's files and to all materials and information gathered in any investigation, except as otherwise provided by law. Utah Admin. Code R907-1-4(1).
 - iv) Within 20 days after receipt of a request for agency review, any party, including the division or office that issued the original decision, may submit additional documentation, which may include legal briefs. The hearing officer may grant either party an extension of time for good cause shown. See Utah Admin. Code R907-1-4(2).
 - v) Format of hearing¹⁾ Conducted informally under the Utah Administrative Procedures Act and Utah Admin. Code R907-1-1, unless converted to a formal hearing by the Hearing Officer.
 - 2) Opening statement by both parties, presentation of evidence by both parties and closing argument.
 - 3) All witnesses are sworn and subject to cross examination.
 - 4) Applicant presents first, since the applicant is challenging the Department's determination regarding the applicant's eligibility for relocation assistance benefits.
 - vi) After the hearing, the Department will issue a Final Order in accordance with R907-1-4(3). Contents of Final Order. The Hearing Officer will issue a final agency order as promptly as possible. The Final Order will contain:
 - 1) a designation of the statute or rule permitting or requiring review
 - 2) a statement of the issues reviewed
 - 3) findings as fact as to each of the issues
 - 4) conclusions of law as to each of the issues
 - 5) the reasons for the disposition
 - 6) whether the decision of the division or office initiating the decision is affirmed, reversed, modified, or remanded
 - 7) the right to judicial review pursuant to Utah Code Ann. Section 63-46b-15 by filing a complaint in district court within 30 days
 - vii) Any party may apply for reconsideration within 20 days following the procedures set forth in Utah Admin. Code R907-1-5.
 - viii) Utah Code 63-46b-15 provides that "the district courts have jurisdiction to

review by trial de novo all final agency actions resulting from informal adjudicative proceedings" If any such review is sought, the complaint must be filed within 30 days of the issuance of the Final Order.

3. **Dispute resolution** (Utah Code Ann. § 57-12-14).
 - a. If the Department and the private property owner or displaced person disagrees on any issue arising out of Title 57, Chapter 12, the private property owner may submit the dispute for mediation or arbitration according to the procedures and requirements of Section 13-43-204.
 - b. The private property owner or displaced person may request that the mediator or arbitrator authorize an additional appraisal.
 - c. If the mediator or arbitrator determines that an additional appraisal is reasonably necessary to reach a resolution of the case, the mediator or arbitrator may:
 - i) have an additional appraisal of the property prepared by an independent appraiser
 - ii) require the Department to pay the costs of the first additional appraisal

RELOCATION NOTICES

UDOT will provide written notices to displacees at critical points in the relocation process. The purpose of the notices is to fully inform each displacee of the significant actions being taken by UDOT and of their eligibility for relocation payments and services. These notices provide the supporting information necessary to claim relocation benefits and enable displacees to plan their relocation. The written notices described in this Section must be furnished to each displaced person.